

Storage expenses are presumed to be disproportionate to the value of the property where the expense has reached or is anticipated to reach 50 percent of the value of the property. The right of a claimant to seized property which has been destroyed or otherwise disposed of shall not be extinguished.

(2) Publication of a notice of the seizure, regardless of the disposition of the property, will be required pursuant to 19 U.S.C. 1607. Claimants to seized property will be permitted to file a petition for remission of the forfeiture pursuant to 19 U.S.C. 1618, and part 171 of this chapter. A claimant receiving full or partial relief from the forfeiture shall be reimbursed the difference between the value of the merchandise at the time of the seizure, pursuant to 19 U.S.C. 1606 and § 162.43 of this part, and any remitted forfeiture amount that the claimant is required to pay.

(3) A claimant to destroyed or otherwise disposed of seized property requesting relief in the form of payment may file a claim and cost bond and seek judicial hearing on the forfeiture pursuant to 19 U.S.C. 1608.

(4) Successful claimants shall be compensated from Customs Forfeiture Fund pursuant to 19 U.S.C. 1613b.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 85-195, 50 FR 50290, Dec. 10, 1985; T.D. 92-69, 57 FR 30640, July 10, 1992; T.D. 99-27, 64 FR 13676, Mar. 22, 1999; T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

§ 162.49 Forfeiture by court decree.

(a) *Report to the U.S. attorney or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).* When it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, the Fines, Penalties, and Forfeitures Officer or the special agent in charge of the area involved shall furnish a report to the U.S. attorney or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), in accordance with the provisions of section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603).

(b) *Bonding of seized property.* When a claimant desires to file a bond for the release of seized property which is the subject of a court proceeding, he shall be referred to the U.S. attorney. The Government is entitled to recover the penal sum of the bond if forfeiture is then decreed.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 85-90, 50 FR 21431, May 24, 1985; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

§ 162.50 Forfeiture by court decree: Disposition.

(a) *Sale.* Forfeited property decreed by the court for sale or disposition by the Fines, Penalties, and Forfeitures Officer shall be disposed of in the same manner as property summarily forfeited. (See § 162.46.)

(b) *Transfer to other ports for sale.* If the laws of the State in which property is seized and forfeited prohibit the sale of such property, or if the Commissioner of Customs is of the opinion that the sale of forfeited property may be made more advantageously at another port, application may be made to the court to permit disposition in accordance with the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611). If the court permits such disposition, the property shall be moved to and sold at such other port as the Commissioner may direct provided it has been cleared for sale.

(c) *Destruction—(1) Proceeds of sale not sufficient.* Property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or the Commissioner of Customs for disposition in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611).

(2) *For protection of the revenue.* Any vessel or vehicle forfeited under a decree of any court for violation of any law respecting the Customs revenue may be destroyed in lieu of sale when such destruction is authorized by the Commissioner of Customs to protect the revenue if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of

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the Treasury or Commissioner of Customs for disposition under the provisions of 19 U.S.C. 1705.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

§ 162.51 Disposition of proceeds of sale of property seized and forfeited other than under 19 U.S.C. 1592.

(a) *Order of payment of expenses incurred*—(1) *When application for remission and restoration is filed and approved.* Section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613), and §171.41 of this chapter authorize the filing of an application for remission of the forfeiture and restoration of the proceeds from the sale of seized and forfeited property. If the application is filed within 3 months after the date of sale and is approved, the proceeds of the sale, or any part thereof, shall be restored to the applicant after deducting the following charges in the order named:

- (i) Internal revenue taxes.
- (ii) Marshal's fees and court costs.
- (iii) Expenses of advertising and sale.
- (iv) Expenses of cartage, storage, and labor. When the proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.
- (v) Duties.
- (vi) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(2) *When no application for remission and restoration is filed or the application is denied.* If no application for remission and restoration is filed within 3 months after the date of sale of seized and forfeited property, or if the application is denied, the proceeds of the sale shall be disbursed in the following order:

- (i) Internal revenue taxes.
- (ii) Marshal's fees and court costs.
- (iii) Expenses of advertising and sale.
- (iv) Expenses of cartage, storage, and labor. When the proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.
- (v) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the

lien has been given in the manner prescribed by law.

(vi) The residue, if any, shall be deposited with the Treasurer of the United States as a customs or navigation fine.

(b) *Transfer of seized and forfeited property to another Federal agency.* In the event that the seized and forfeited property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse Customs for the costs incurred in moving and storing the property from the date of seizure to the date of delivery.

[T.D. 79-160, 44 FR 31957, June 4, 1979; 44 FR 36376, June 22, 1979, as amended by T.D. 84-78, 49 FR 13492, Apr. 5, 1984]

§ 162.52 Disposition of proceeds of sale of property seized and forfeited under 19 U.S.C. 1592.

(a) *Order of disposition of proceeds.* Section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613), provides for the disposition of the proceeds from the sale of property seized and forfeited under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), as provided for in §162.75 of this part. Distribution shall be made in the following order:

- (1) Internal revenue taxes.
- (2) Marshal's fees and court costs.
- (3) Expenses of advertising and sale.
- (4) Expenses of cartage, storage, and labor. When proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.
- (5) Duties.
- (6) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(7) The monetary penalty assessed under 19 U.S.C. 1592.

(8) The remaining proceeds, if any, shall be paid to the appropriate party-in-interest as provided in paragraph (b).

(b) *Determination of appropriate party-in-interest.* (1) If the property is subject to a judicial forfeiture proceeding and if it appears at the time of this proceeding that 2 or more parties claim an interest in the remaining proceeds referred to in paragraph (a)(8), each of